

Exhibit 6

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA, 21-CR-86 (PKC)
4 Plaintiff, United States Courthouse
5 -against- Brooklyn, New York
6 BRENDAN HUNT, April 28, 2021
7 Defendant. 9:00 a.m.
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10 TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
11 BEFORE THE HONORABLE PAMELA K. CHEN
12 UNITED STATES DISTRICT JUDGE
13 BEFORE A JURY

12 APPEARANCES

13 For the Government: UNITED STATES ATTORNEY'S OFFICE
14 Eastern District of New York
15 271 Cadman Plaza East
16 Brooklyn, New York 11201
17 BY: DAVID K. KESSLER, ESQ.
FRANCIS J. NAVARRO, ESQ.
IAN CRAIG RICHARDSON, ESQ.
Assistant United States Attorneys

18 For the Defendant: FEDERAL DEFENDERS OF NEW YORK
19 One Pierrepont Plaza
20 Brooklyn, New York 11201
21 BY: JAN A. ROSTAL, ESQ.
LETICIA MARIA OLIVERA, ESQ.

22 Court Reporter: LINDA D. DANELCZYK, RPR, CSR, CCR
23 Phone: 718-613-2330
Fax: 718-804-2712
Email: LindaDan226@gmail.com

24 Proceedings recorded by mechanical stenography. Transcript
25 produced by computer-aided transcription.

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JURY CHARGE

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(Jury enters.)

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THE COURT: Have a seat, everyone.

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(Pause.)

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THE COURT: Ladies and gentlemen, I am about to read to you the instructions and I am going to press the Government into service to show it to you on the overhead projector as well, so you can follow along reading it.

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As I mentioned to you earlier, though, you will get a copy of the written instructions for your deliberations. So, you don't have to worry about taking copious notes, because, unless you know shorthand, that would be quite a feat. Shorthand is one of those things that very few people know.

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So, again, because my general philosophy about time and your perception of time is that it is always better to know where you're going or your destination so that you can

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1 gauge your expectation, the entire set of jury instructions is
2 25 pages. So, for those of you who be want to keep count as
3 we go, you will know, at least, what the end point is.

4 I cannot read them too fast for the reason that may
5 be obvious to you, because we have a court reporter who,
6 though superb, does need me to go at least at a reasonable
7 pace so that she can transcribe everything.

8 I will go ahead and start even while they're setting
9 up the overhead. I am going to dim the lights, but everybody
10 stay awake here. Pay attention, please.

11 Okay, now I know for you folks in the back this is
12 going to be really difficult, so you may have to focus more on
13 what I say.

14 Make it a little bit larger, can we do that.

15 THE COURTROOM DEPUTY: A little what?

16 THE COURT: A little larger. Then someone will have
17 to be in charge of moving the pages as we go along.

18 All right, ladies and gentlemen of the jury, now
19 that you have heard all the evidence in the case, as well as
20 the arguments of the lawyers, it is my duty to give you
21 instructions as to the law applicable in this case. We are
22 all grateful to you for the close attention you have given
23 this case thus far. I ask that you continue to do so as I
24 give you these instructions.

25 As you know, Defendant Brendan Hunt is charged with

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1 one count of threatening to assault or murder a United States
2 official, with intent to impede, intimidate, or interfere with
3 such official while engaged in the performance of official
4 duties, or with intent to retaliate against such official on
5 account of the performance of official duties. Defendant has
6 pled not guilty to this charge.

7 My instructions will be in three parts:

8 First, I will instruct you regarding the general
9 rules that define and govern the duties of a jury in a
10 criminal case such as this;.

11 Second, I will instruct you as to the particular
12 crimes charged in this case and the specific elements that the
13 Government must prove with respect to each crime.

14 And actually, that should be modified.

15 I will instruct you as to the particular crime
16 charged in case and the specific elements that the Government
17 must prove with respect to that crime.

18 And third, I will give you some general rules
19 regarding your deliberations.

20 First: General instructions: Role of the Court and
21 jury.

22 Let me start by restating our respective roles as
23 judge and jury.

24 Your duty, as I mentioned in my opening
25 instructions, is to find the facts from all of the evidence in

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1 this case. You are the sole judges of the facts, and it is
2 for you and you alone to determine what weight to give the
3 evidence, to resolve such conflicts as may have appeared in
4 the evidence, and to draw such inferences as you deem to be
5 reasonable and warranted from the evidence.

6 My job is to instruct you on the law. You must
7 apply the law, in accordance with my instructions, to the
8 facts as you find them. I remind you of your sworn obligation
9 to follow the law as I describe it to you, whether you agree
10 with it or not. You should not be concerned about the wisdom
11 of any rule of law that I state. Regardless of any opinion
12 you may have about what the law may be -- or should be -- it
13 would be a violation of your oaths as jurors to base your
14 verdict upon any other view of the law than the one given to
15 you in these instructions.

16 If any of the lawyers have stated a legal principle
17 that differs from any that I state to you in my instruction,
18 you must be guided solely by what I instruct you about the
19 law. You should not single out any one instruction as alone
20 stating the law, but should consider my instructions as a
21 whole.

22 Since it is your job -- not mine -- to find the
23 facts, I have neither expressed nor attempted to intimate an
24 opinion about how you should decide the facts of this case.
25 You should not consider anything I have said or done in the

1 course of the trial, including these instructions, as
2 expressing any opinion about the facts or the merits of the
3 case. This includes sustaining or overruling objections. For
4 example, on occasion, I may have asked questions of a witness.
5 You should attach no special significance to these questions
6 simply because they were asked by me.

7 A. Function of the indictment and what is not in
8 evidence.

9 Defendant, Mr. Hunt, has been charged in an
10 indictment with violating federal law. The indictment is
11 merely a statement of the charge against the defendant. The
12 indictment is not itself evidence nor does it create an
13 inference of guilt. As previously stated, Defendant has
14 entered a plea of not guilty to the charge against him in the
15 indictment.

16 B. The definition of evidence and meaning of
17 objections.

18 You must determine the facts in this case based
19 solely on the evidence presented, or those inferences which
20 can reasonably be drawn from the evidence presented. Evidence
21 has been presented to you in the form of sworn testimony from
22 the witnesses and documentary exhibits, including video and
23 photographs, that have been received in evidence by me. As I
24 will also instruct you, certain evidence is admissible only
25 for a limited purpose.

1 There are rules of evidence that control what can be
2 received into evidence. When a lawyer asks a question or
3 offers an exhibit into evidence, and a lawyer on the other
4 side thinks that it is not permitted by the rules of evidence,
5 that lawyer may object. This simply means that the lawyer is
6 requesting that I make a decision on a particular rule of
7 evidence. Lawyers have a duty to their client to object when
8 they believe something is improper under the rules of
9 evidence. You should not be influenced by the objection. If
10 I sustain an objection, you must ignore the question or
11 exhibit and must not try to guess what the answer might have
12 been or the exhibit might have contained. If I overrule the
13 objection, the evidence will be admitted, but do not give it
14 special attention because of the objection.

15 Now, certain things are not evidence: The
16 indictment; arguments, statements or summations by the
17 lawyers; objections to the questions or to the offered
18 exhibits; and any testimony that has been excluded, stricken,
19 or that you have been instructed to disregard.

20 C. Direct and circumstantial evidence.

21 As I mentioned in my opening instructions, there
22 are, generally speaking, two types of evidence: Direct and
23 circumstantial. You may use both types of evidence in
24 reaching your verdict in this case. There is no distinction
25 between the weight to be given to these two types of evidence.

1 You must base your verdict on a reasonable assessment of all
2 of the evidence in the case.

3 Direct evidence is testimony from a witness about
4 something he or she knows by virtue of his or her own
5 senses -- something he or she has seen, felt, touched, tasted
6 or heard.

7 The other type of evidence -- circumstantial
8 evidence -- is proof of a chain of circumstances that point to
9 the existence or nonexistence of certain facts. A simple
10 example of circumstantial evidence is as follows: Suppose you
11 came to court on a day when the weather was clear, sunny and
12 dry. Like today. However, after several hours in the
13 courtroom where there are no windows -- again, that applies
14 here -- you observe a person come in wearing a wet raincoat
15 and another person shaking a wet umbrella. Without you ever
16 looking outside, you would not have direct evidence that it
17 rained, but you might infer from these circumstances that
18 while you were sitting in court, it rained outdoors.

19 That is all there is to circumstantial evidence. On
20 the basis of reason, experience, and common sense, you infer
21 the existence or nonexistence of a fact from one or more
22 established facts.

23 You are permitted to draw, from the facts you find
24 to have been proved, such reasonable inferences as would be
25 justified in light of your experience. Inferences are

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1 deductions or conclusions that reason and common sense lead
2 you, the jury, to draw from the facts that have been
3 established by the evidence in the case. Use your common
4 sense in drawing inferences; however, you are not permitted to
5 engage in mere guesswork or speculation.

6 There are times when differing inferences may be
7 drawn from facts, whether proved by direct or circumstantial
8 evidence. Perhaps, the Government asks you to draw one and
9 Defendant asks you to draw another. It is for you, and you
10 alone, to decide what inferences you will draw. No
11 significance should be passed to the fact that a document or
12 other exhibit or witness testimony was introduced by one party
13 rather than by the other. Any party is entitled to the
14 benefit of any evidence tending to establish its contentions,
15 even though such evidence may have come from witnesses or
16 documents introduced by another party.

17 D. Witness credibility.

18 In deciding what the facts are in this case, you
19 must consider all of the evidence that has been offered. In
20 doing this, you must decide which testimony to believe and
21 which testimony not to believe. You are the sole judges of
22 credibility of the witnesses and the weight their testimony
23 deserves. Your determination of the issue of credibility very
24 largely must depend upon the impression that a witness made
25 upon you as to whether or not that witness was telling the

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1 truth or giving you an accurate version of what occurred. You
2 may choose to disbelieve all or part of any witness's
3 testimony. In deciding whether and to what extent to believe
4 a witness's testimony, you may take into account any number of
5 factors, including the following:

6 The witness's opportunity to see, hear and know
7 about the events he or she described;.

8 The witness's ability to recall and describe those
9 things;.

10 The witness's manner in testifying -- was the
11 witness candid and forthright or did the witness seem as if he
12 or she was hiding something, being evasive, or suspect in some
13 way;.

14 How the witness's testimony on direct examination
15 compared with how the witness testified on cross-examination;.

16 The reasonableness of the witness's testimony in
17 light of all the other evidence in the case;.

18 Whether the witness had any possible bias, any
19 relationship to a party, any motive to testify falsely, or any
20 possible interest in the outcome of the trial; and.

21 Whether the witness's testimony was contradicted by
22 his or her other testimony, by what that witness said or did
23 on a prior occasion, by the testimony of other witnesses, or
24 by other evidence.

25 Inconsistencies or discrepancies in the testimony of

1 a witness, or between the testimony of different witnesses,
2 may or may not cause you to discredit such testimony. In
3 weighing the effects of a discrepancy, you should consider
4 whether it pertains to a matter of importance or an
5 unimportant detail, and whether the discrepancy results from
6 an innocent error or intentional falsehood.

7 If you find that any statement by a witness on the
8 stand is false, in whole or in part, you may disregard the
9 particular part you find to be false or you may disregard his
10 or her entire testimony as not worthy of belief.

11 E. Testimony of Defendant.

12 The defendant in a criminal case never has any duty
13 to testify or come forward with any evidence. This is
14 because, as I have told you, the burden of proof beyond a
15 reasonable doubt remains on the Government at all times, and
16 the defendant is presumed innocent.

17 In this case, Defendant did testify and he was
18 subject to cross-examination like any other witness. You
19 should examine and evaluate the testimony just as you would
20 the testimony of any other witness.

21 F. Testimony of law enforcement officers.

22 During the trial, you heard testimony from law
23 enforcement officers. The fact that a witness is or was
24 employed as a law enforcement official does not mean that his
25 or her testimony is deserving of more or less consideration or

1 greater or lesser weight than that of an ordinary witness. It
2 is for you to decide, after weighing all the evidence and in
3 light of the instructions I have given you about the factors
4 relevant to determining the credibility of any witness,
5 whether to accept the testimony of a law enforcement witness,
6 and what weight, if any, that testimony deserves.

7 G. Testimony of expert witnesses.

8 Ordinarily, witnesses are restricted to testifying
9 concerning matters of fact. In this case, I have permitted a
10 certain witness, who we refer to as an expert witness, to
11 express his opinion about matters -- oh, to express their
12 opinions -- there was more than one actually -- to express
13 their opinions about matters that are at issue. An expert
14 witness may be permitted to testify to an opinion on those
15 matters about which he or she has special knowledge, skill,
16 experience, and training. Such testimony is presented to you
17 on the theory that someone who is experienced and
18 knowledgeable in the field can assist you in understanding the
19 evidence or in reaching an independent decision on the facts.

20 In weighing this opinion testimony, you may consider
21 the witness's qualifications, his or her opinions, the reasons
22 for testifying, as well as all of the other considerations
23 that ordinarily apply when you are deciding whether or not to
24 believe a witness's testimony. You may give the opinion
25 testimony whatever weight, if any, you find it deserves in

1 light of all of the evidence in this case. You should not,
2 however, accept opinion testimony merely because I allowed the
3 witness to testify concerning his or her opinion. Nor should
4 you substitute it for your own reason, judgment, and common
5 sense. The determination of the facts in this case rests
6 solely with you.

7 In sum, an expert witness is in all other respects
8 the same as any other witness. You should consider his or her
9 qualifications, his or her experience, his or her interest in
10 the outcome of the case, if any, his or her demeanor, and all
11 the other factors you have been instructed to consider in
12 assessing the credibility of other witnesses.

13 H. Witness interviews.

14 There was testimony at trial that the attorneys for
15 the parties interviewed witnesses when preparing for and
16 during the course of the trial. There is nothing
17 inappropriate about such meetings. Attorneys have an
18 obligation to prepare their case as thoroughly as possible
19 and, in the discharge of that responsibility, to interview
20 witnesses. However, you may consider the frequency and
21 duration of these preparation sessions, and the impact they
22 may have had on the witness's testimony, in evaluating the
23 credibility of the witness.

24 I. No duty to call witnesses, to produce evidence,
25 or to use particular investigative techniques.

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1 Although the Government bears the burden of proof
2 beyond a reasonable doubt, and although a reasonable doubt can
3 arise from lack of evidence, you are instructed that there is
4 no legal requirement that the Government use any specific
5 investigative techniques, pursue any investigative lead to
6 prove its case, or disclose an ongoing investigation to the
7 public or to victims. The Government, its agents, and
8 employees are not on trial. Therefore, although you are to
9 carefully consider the evidence adduced by the Government, you
10 are not to speculate as to why they used the techniques they
11 did or why they did not use other techniques. Additionally,
12 the law does not require that all things mentioned during the
13 course of the trial be produced as exhibits. Your concern is
14 to determine whether or not, on the evidence or lack of
15 evidence, Defendant's guilt has been proved beyond a
16 reasonable doubt.

17 In this regard, I also charge you that all persons
18 who may have been present at any time or place mentioned in
19 the case, or who may appear to have some knowledge of the
20 issues in this case, need not be called as witnesses. Both
21 the Government and the defense have the same right to subpoena
22 witnesses to testify on their behalf. There is no duty on
23 either side, however, to call a witness whose testimony would
24 be merely cumulative of testimony already in evidence, or who
25 would merely provide additional testimony to facts already in

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1 evidence. I remind you, however, that because the law
2 presumes that Defendant is innocent, the burden of proving his
3 guilt beyond a reasonable doubt is on the Government
4 throughout the trial. Defendant does not have the burden of
5 proving his innocence or of producing any evidence or calling
6 any witnesses at all.

7 J. Prior inconsistent statements.

8 You may have heard evidence that a witness or
9 witnesses made a statement on an earlier occasion that counsel
10 argues is inconsistent with the witness's trial testimony.
11 You may consider such evidence of the prior inconsistent
12 statement only for the limited purpose of helping you to
13 decide whether to believe the trial testimony of the witness
14 who is claimed to have contradicted himself or herself. If
15 you find that the witness made an earlier statement that
16 conflicts with his or her trial testimony, you may consider
17 that fact in deciding how much of his or her trial testimony,
18 if any, to believe.

19 In making this determination, you may consider
20 whether the witness purposely made a false statement or
21 whether it was an innocent mistake; whether the inconsistency
22 concerns an important fact or whether it had to do with a
23 small detail; whether the witness had an explanation for the
24 inconsistency and whether that explanation appealed to your
25 common sense.

1 It is exclusively your duty, based upon all of the
2 evidence and your own good judgment, to determine whether the
3 prior statement was inconsistent, and if so, how much weight,
4 if any, to give the inconsistency in determining whether to
5 believe all or part of the witness's testimony.

6 K. Stipulations of fact.

7 A stipulation is an agreement among the parties that
8 a certain fact is true. The attorneys for the United States
9 and the attorneys for Defendant have entered into stipulations
10 concerning facts that are relevant to this case.

11 When the attorneys on both sides stipulate and agree
12 as to the existence of a fact, you must accept the stipulation
13 as evidence, and regard that fact as proved.

14 L. Uncharged acts considered for a limited purpose.

15 Defendant is charged with making four statements
16 that the Government claims are "true threats" under the law.
17 I admitted evidence of other statements, expressions, beliefs,
18 opinions, acts, or communications, allegedly made by
19 Defendant, for the limited purpose of determining whether
20 Defendant acted with the required intent in regard to the
21 charged offense. You may consider evidence of uncharged acts
22 or statements, expressions, beliefs, opinions, acts, or
23 communications, as evidence of Defendant's motive, knowledge,
24 absence of mistake, or lack of accident with respect to the
25 four charged threats. Evidence of uncharged conduct by

1 Defendant may not be considered by you for any purpose other
2 than the ones I have just listed. Specifically, you may not
3 consider this evidence as proof that Defendant has a criminal
4 propensity; that is, that he likely committed the crime
5 charged in the indictment because he was predisposed to
6 criminal conduct. You also may not substitute uncharged
7 statements, expressions, beliefs, opinions, acts, or
8 communications for the four statements that the Government
9 alleges are the threats.

10 M. Consideration of political views.

11 You have just heard testimony and actually received
12 some exhibits related to what might be considered Defendant's
13 political views. You must treat this evidence with caution.
14 This evidence alone cannot be used to find Defendant guilty of
15 any of the offenses charged in the indictment. I should say,
16 guilty of the offense charged in the indictment. It may,
17 however, be considered by you for limited purposes, such as
18 considering the context in which statements attributed to
19 Defendant were made, what Defendant's intent was in making the
20 statement, and his expectation regarding the effects of his
21 statement. You cannot find Defendant guilty because you
22 disagree with or find distasteful his political views.

23 N. Other persons not on trial.

24 During this trial, you have heard evidence about the
25 involvement of other persons in the events related to this

1 case. That these individuals are not on trial before you is
2 not your concern. Your concern is solely the defendant on
3 trial before you.

4 O. No sympathy, fear, prejudice or bias.

5 In reaching your verdict, you are to be guided
6 solely by the evidence in this case, and not be swayed by
7 sympathy, fear, prejudice, or bias for one side or the other.
8 The crucial question you must ask yourselves as you sift
9 through the evidence is: Has the Government proven the guilt
10 of Defendant beyond a reasonable doubt?

11 It is for you alone to decide whether the Government
12 has met that burden as to each element of the crime charged,
13 solely on the basis of the evidence before you and the law as
14 I charge you. If you should find that the Government has met
15 its burden of proving Defendant's guilt beyond a reasonable
16 doubt, you may render a verdict of guilty without concern for
17 sympathy or any other reason. On the other hand, if you have
18 a reasonable doubt as to Defendant's guilt, you should not
19 hesitate because of sympathy, fear, prejudice, or bias for or
20 against anyone to find him not guilty.

21 P. Equality of the Government and the Defense
22 before the Court.

23 The fact that this prosecution is brought in the
24 name of the United States of America entitles the Government
25 to no greater consideration than that accorded to any other

1 party to a litigation. By the same token, the Government is
2 also entitled to no less consideration. All parties, whether
3 the Government or individuals, are equal before the law.

4 Q. Punishment.

5 The question of possible punishment of a defendant
6 is of no concern to the jury and should not, in any sense,
7 enter into or influence your deliberations. The duty of
8 imposing a sentence on a particular defendant in the event of
9 a conviction rests exclusively upon the Court. Your function
10 is to weigh the evidence in the case and to determine whether
11 or not Defendant is guilty beyond a reasonable doubt, solely
12 upon the basis of such evidence. Under your oath as jurors,
13 you cannot allow consideration of the punishment that may be
14 imposed upon Defendant, if he is convicted, to influence your
15 verdict in any way, or to enter into your deliberations in any
16 sense.

17 R. Presumption of innocence, burden of proof.

18 I will now give specific instructions regarding the
19 presumption of innocence and the burden of proof in this case.

20 Defendant is before you today because he has been
21 charged in an indictment with violating federal law. The
22 indictment is merely a statement of the charge and is not
23 itself evidence. I assume by now you know that because I've
24 repeated it several times. Defendant is, therefore, presumed
25 to be innocent of the charge against him, and that presumption

1 alone, unless overcome, is sufficient to acquit him.

2 To convict Defendant, the burden is on the
3 Government to prove Defendant's guilt as to each element of
4 the charge beyond a reasonable doubt. The law never imposes
5 upon a defendant in a criminal case the burden or duty of
6 calling any witness or producing any evidence. The legal
7 presumption of innocence remains in force until such time, if
8 ever, that you as a jury are satisfied that the Government has
9 proven the guilt of Defendant as to each element of the crime
10 charged beyond a reasonable doubt. Your task in deliberations
11 is not to decide between guilt and innocence; it is to decide
12 between guilty and not guilty based on the evidence or lack of
13 evidence.

14 S. Reasonable doubt.

15 You may be wondering what constitutes a "reasonable
16 doubt." It is doubt based upon reason and common sense. It
17 is a doubt that a reasonable person has after carefully
18 weighing all of the evidence or lack of evidence. Proof
19 beyond a reasonable doubt must, therefore, be proof that is so
20 convincing that a reasonable person, based on that proof,
21 would not hesitate to draw the conclusion offered by the
22 Government.

23 A reasonable doubt is not caprice or whim. It is
24 not speculation or suspicion. It is not an excuse to avoid
25 the performance of an unpleasant duty. And it is not

1 sympathy. The law does not require that the Government prove
2 guilt beyond all possible doubt: proof beyond a reasonable
3 doubt is sufficient to convict.

4 If, after fair and impartial consideration of all
5 the evidence, you are satisfied beyond a reasonable doubt of
6 Defendant's guilt, you should find Defendant guilty of the
7 charge. On the other hand, if after fair and impartial
8 consideration of the evidence or lack of evidence concerning
9 the charge, you have a reasonable doubt as to Defendant's
10 guilt, you must find Defendant not guilty of the charge.

11 Okay, now we are going to the substantive law, and
12 for you page counters, we are at page 13. So we are a little
13 bit more than halfway done.

14 I will now turn to the second part of this charge
15 and instruct you as to the legal elements of the criminal
16 count the Government has alleged.

17 Defendant is formally charged in an indictment. As
18 I instructed you at the outset of this case, an indictment is
19 a charge or accusation; it is not evidence. The indictment in
20 this case contains one count upon which you will be asked to
21 render a verdict. I will describe that count in greater
22 detail in a moment.

23 A. Venue.

24 Venue refers to the location of the charged crime.
25 You must consider whether any act in furtherance of the crime

1 occurred within the Eastern District of New York. I instruct
2 you that the Eastern District of New York encompasses
3 Brooklyn, Queens, and Staten Island in New York City, and
4 Nassau and Suffolk Counties on Long Island. The Government
5 must prove by a preponderance of the evidence that the crime
6 was committed in the Eastern District of New York.

7 While the Government's burden as to everything else
8 in the case is proof beyond a reasonable doubt, a standard
9 that I have already explained to you, venue need be proved
10 only by the lesser standard of "preponderance of the
11 evidence." To prove something by a preponderance of the
12 evidence means simply to prove that the fact is more likely
13 true than not true. It is determined by considering all of
14 the evidence and deciding which evidence is more convincing.
15 If the evidence appears to be equally balanced, or if you
16 cannot say upon which side it weighs heavier, you must resolve
17 this question against the Government.

18 I emphasize that this lesser standard applies only
19 where I specifically mention it in this charge.

20 B. Dates approximate.

21 The indictment charges "in or about" and "on or
22 about" and "between" certain dates. The proof need not
23 establish with certainty the exact date of an alleged offense.
24 It is sufficient if the evidence establishes beyond a
25 reasonable doubt that an offense was committed on a date

1 reasonably near the dates alleged.

2 C. Intentional conduct.

3 The Government must prove that Defendant acted
4 intentionally when he made the alleged threats. As a general
5 rule, the law holds individuals accountable only for conduct
6 in which they intentionally engage.

7 Before you find that Defendant acted intentionally,
8 you must be satisfied beyond a reasonable doubt that he acted
9 deliberately and purposefully; that is, Defendant's acts must
10 have been the product of his conscious objective rather than
11 the product of a mistake or accident.

12 (Continued on the following page.)

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1 THE COURT: (Cont'g.) The issue of intent requires
2 you to make a determination about a defendant's state of mind,
3 something that rarely can be proved directly. A wise and
4 careful consideration of all the circumstances before you,
5 however, may permit you to make a determination as to a
6 defendant's state of mind. Indeed, in your everyday affairs,
7 you are frequently called upon to determine a person's state
8 of mind from his or her words and actions in given
9 circumstances. You are asked to do the same here.

10 It is sufficient that a defendant intentionally
11 engaged in conduct that the law forbids. The government is
12 not required to prove that defendant is aware of the law that
13 actually forbids his conduct.

14 D. The indictment.

15 The indictment charges defendant with threatening to
16 assault or murder Members of the United States Congress. The
17 indictment is not evidence. It is a charge or accusation.
18 The charge in the indictment reads as follows:

19 On or about and between December 6, 2020 and
20 January 8, 2021, both dates being approximate and inclusive,
21 within the Eastern District of New York and elsewhere, the
22 defendant Brendan Hunt, also known as "X-Ray Ultra," did
23 knowingly and intentionally threaten to assault and murder a
24 United States official, with intent to impede, intimidate, and
25 interfere with such official while engaged in the performance

1 of official duties, and with intent to retaliate against such
2 official on account of the performance of official duties to
3 wit: Hunt threatened to assault and murder Members of the
4 United States Congress.

5 The statute relevant to that charge is
6 Section 115(a) (1) (B) of Title 18 of United States Code -- I'm
7 sorry, it should say of the Title 18 of the United States Code
8 which states:

9 Whoever threatens to assault, kill or murder a
10 United States official with intent to impede, intimidate, or
11 interfere with such official, while engaged in the performance
12 of official duties or with intent to retaliate against such
13 official on account of the performance of official duties,
14 shall be guilty of a crime.

15 E. Use of the conjunctive in the indictment.

16 Although the indictment charges that defendant made
17 threats to assault and murder a United States official with
18 intend to impede, intimidate, and interfere with such
19 official, while engaged in the performance of their official
20 duties, and with intent to retaliate against such official on
21 account of the performance of their official duties, as I just
22 explained, the statute at issue states that a person is guilty
23 of a crime when he or she make threats to assault or murder a
24 United States official with intent to impede, intimidate, or
25 interfere with such official while they are engaged in the

1 performance of their official duties, or with intent to
2 retaliate against such official on account of their
3 performance of their official duties.

4 Where a statute specifics in the disjunctive the
5 multiple alternative ways in which an offense may be created,
6 that is, by using the word "or," the government need prove
7 only one of those activities, even if the indictment alleges
8 the multiple ways in which the offense may have been committed
9 in the conjunctive, that is, by using the word "and." In
10 other words, because the statute provides multiple alternative
11 ways in which the offense may be committed, the government is
12 required to prove only one of those ways, that is, that
13 defendant may be alleged threats to assault or murder with the
14 intent to impede or intimidate or interfere with or retaliate
15 against -- I know some of us are having flashbacks to English
16 class. Okay. The difference between disjunctive and
17 conjunctive now having been explained to you.

18 F. The elements of the offense.

19 To prove a violation of the crime charged in the
20 indictment, the government must establish each of the
21 following elements beyond a reasonable doubt:

22 First, that defendant threatened to assault or
23 murder a person.

24 Second, that at the time of the alleged threat, the
25 threatened person was a federal official.

1 Third, that defendant acted with the intent to
2 impede, intimidate, or interfere with that official while they
3 were engaged in the performance of their official duties or
4 with the intent to retaliate against that official on account
5 of the performance of their official duties.

6 First element: Threatening to assault or murder.

7 The first element that the government must prove
8 beyond a reasonable doubt is that defendant made a threat to
9 assault or murder. As this is a case involving speech, I
10 advise you that the First Amendment protects vehement scathing
11 and offensive criticism of public officials, included Members
12 of Congress. The First Amendment therefore protects political
13 exaggeration or expressions of the opinion. Further, the
14 First Amendment protects mere advocacy of the use of force or
15 violence. But the First Amendments does not protect "true
16 threats" as I will now define the phrase.

17 For a statement to be a true threat, it must been
18 made under such circumstances that an ordinary, reasonable
19 person who heard or read the statement, and who is familiar
20 with the context of the statement, would understand it as a
21 serious expression of an intent to inflict bodily injury.
22 This question is informed by whether the statement is, on its
23 face and under the circumstances, so unequivocal,
24 unconditional, immediate and specific as to the person
25 threatened as to convey seriousness and imminence. But

1 depending on the circumstances, even if conditional and
2 implicit statement can be threat. And an example of such a
3 statement is "your money or your life," which although
4 conditional and not containing explicitly threatening
5 language, could nonetheless constitute a threat.

6 As noted, you heard testimony from individuals
7 including law enforcements who viewed defendant's alleged
8 threats. Although that testimony may inform your view of the
9 context in which a particular statement was made, it is
10 ultimately for you to - and not any witness, law enforcement
11 or otherwise - to determine whether an ordinary, reasonable
12 recipient who's familiar with the context of the statement
13 would interpret it as a threat of bodily injury.

14 The government does not need to prove that the
15 defendant attempted to carry out the alleged threat or
16 threats, or even that he intended to carry them out or had the
17 ability to do so. The government also does not need to prove
18 that defendant personally intended to take violent action
19 against the officials.

20 But evidence, or lack of evidence, that defendant
21 made plans, efforts, or had the means and know-how to follow
22 through on the alleged threats, may inform your view of the
23 circumstances in which he made the statements and the effect
24 he intended the statement themselves to have.

25 Defendant has been charged with one count of

1 threatening to assault or kill Members of Congress. There
2 have been evidence of more than one act or incident upon which
3 a conviction of this count may be based. The government
4 alleges at that defendant made four different threats...

5 First, a December 6, 2020 comment from his Facebook
6 account stating:

7 Trump, we want actual revenge on democrats.
8 Meaning, we want you to hold a pubic execution of Pelosi, AOC
9 Schumer et cetera. And if you don't do it, the citizenry
10 will. We're not voting in another rigged election. Start up
11 the firing squads, mow down the commies -- mow down these
12 commies and let's talk America back!

13 Second, a December 62020 comment from his Facebook
14 account stating: And pardon my language.

15 Fuck the lockdown PO-LICE! Yeah, booiiii spelled
16 B-O-O-I-I-I run those bigs over! Anyone enforcing this
17 lockdown mask vaccine bullshit deserves nothing less than a
18 bullet their fucking head! Including cops! If you're going
19 to shoot someone tho, spelled T-H-O, go after a high value
20 target like Pelosi, Schumer or AOC. They really need to be
21 put down. These commies will see death before they see us
22 surrender! And then U.S.A., all capital, two!!

23 Third, a video posted on BitChute on January 8,
24 2021, entitled "Kill Your Senators" with the summary
25 "Slaughter Them All," wherein defendant stated, among other

1 things:

2 We need to go back to the U.S. Capitol when all the
3 senators and a lot of the representatives are back there, and
4 this time we have to show up with our guns. And we need to
5 slaughter these motherfuckers... Our government at this point
6 is basically a handful of traitors... So what you need to do
7 is take up arms, get to DC, probably the inauguration...
8 So-called inauguration of this motherfucking communist Joe
9 Biden... That's probably the best time to do this, get your
10 guns, show up to DC, and literally just spray these
11 motherfuckers... Like, that's the only option... They're
12 gonna come after us, they're gonna kill us, so we have to kill
13 them first... So get your guns, show up to DC, put some
14 bullets in their fucking heads. If anybody has a gun, give me
15 it, I'll go there myself and shoot them and kill them... We
16 have to take out these senators and then replace them with
17 actual patriots... This is a ZOG, capital Z, capital O,
18 capital G, government... That's basically all I have to say,
19 but take up arms against them.

20 Fourth, a January 8th, 2021 response to two messages
21 on the social media website Parler: "Exactly, enough with the
22 'trust the plan,' bullshit. Let's go, J-A-N, Jan 20, bring
23 your guns #millionmilitiamarch."

24 To return a guilty verdict on this count, you must
25 be unanimous as to at least one specific threat that you find

1 the government has proved beyond a reasonable doubt.

2 As the parties reminded you during their summations,
3 you must follow my instructions on the law and disregard any
4 explanation by the lawyers about the law that differ from my
5 instructions. In case either party's closing statement caused
6 any confusion on this issue, I want to reiterate that the
7 government has proven its case if you find the evidence meets
8 all the required elements of the crime as to any one of the
9 defendant's four alleged threats, even if you find that it is
10 does not meet the element as to any other of the alleged
11 threats.

12 Second element: Victim was a federal official.

13 The second element that the government must prove
14 beyond a reasonable doubt is that at the time of the alleged
15 threat, the alleged victim was a federal official.

16 Federal officials included Members of Congress. You
17 must determine whether a person defendant allegedly threatened
18 held that title at the time in question.

19 But the government does not have to prove the
20 defendant knew that the alleged victim was a federal official.
21 The crime of threatening a federal official is designed to
22 protect federal officials acting in pursuit of their official
23 function and, therefore, it is sufficient at the time of the
24 alleged -- I'm sorry -- it is sufficient to satisfy this
25 element for the government to prove that the victim was a

1 federal official at the time of the alleged threat. Whether
2 the defendant knew that the victim was a federal official at
3 the time is irrelevant to such a determination and should not
4 be considered by you.

5 Third element: Intent.

6 The government must prove beyond a reasonable doubt
7 that defendant acted with the intent to impede, intimidate, or
8 interfere with the officials while they were engaged in the
9 performance of their official duties, or with the intent to
10 retaliate against the officials on account of the performance
11 of their official duties.

12 "Impede" means to stop the progress, obstruct or
13 hinder.

14 "Intimidate" means to make timid or fearful, to
15 inspire or affect with fear, to frighten, to deter or to
16 overawe.

17 To "interfere with" means to come into collision
18 with, to intermeddle, to hinder, to interpose, or to
19 intervene.

20 To "retaliate against" means to return like for
21 like, or to act in reprisal for some past act.

22 Direct proof of a defendant's intent is almost never
23 available. It would be a rare case where it could be shown
24 that a person wrote or stated that as of a given time, he or
25 she committed an act with a particular intent. Such direct

1 proof is not required. The ultimate fact of intent, though,
2 subjective -- sorry, the ultimate fact of intent, though
3 subjective, may be established by circumstantial evidence
4 based upon the defendant's outward manifestation, his or her
5 words, conduct, acts, and all of the surrounding circumstances
6 disclosed by the evidence and the rational or logical
7 inferences may be drawn from them.

8 You may consider, for example, whether there's
9 evidence that defendant intended or did not intend any of his
10 statements to reach the officials in question. The
11 government, however, does not need to prove that the alleged
12 threats actually reached those officials.

13 Intoxication.

14 There has been evidence that Mr. Hunt may have been
15 intoxicated, whether by alcohol and/or marijuana, at the time
16 he made and/or posted the statements at issue. Intoxication
17 in itself is not a legal defense to a criminal charge.
18 However, you may consider whether Mr. Hunt was intoxicated at
19 the time he made and/or posted any of the statements in
20 determining whether he had the required "intent to impede,
21 intimidate, or interfere with a United States official engaged
22 in the performance of official duties" or "intent to retaliate
23 against such official on account of the performance of
24 official duties."

25 And, folks, we are on page 22. So we are in the

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1 home stretch.

2 Closing instructions.

3 I have now outlined you for you rules of law
4 applicable to this case. The process by which you weigh the
5 evidence and determine the facts and the legal elements that
6 must be proved beyond a reasonable doubt. In a few minutes
7 you will retire to the jury room for your deliberations. I
8 will now give you some general rules regarding your
9 deliberations. Keep in mind that nothing I have said in these
10 instructions is intended to suggest to you in any way what I
11 think your verdict should be. That is entirely for you to
12 decide.

13 By way of reminder, I charge you once again that it
14 is your responsibility to judge the facts in this case from
15 the evidence presented during the trial, and to apply the law
16 as I have given it to you, and your verdict must be based
17 solely on this evidence and law, not on anything else.

18 Foreperson.

19 For your deliberations to proceed in an orderly
20 fashion, you must have a foreperson. The custom in this court
21 is for Juror Number 1 to act as the foreperson. However, if
22 when you begin your deliberations you decide that you want to
23 select another foreperson, you are entitled to do so. The
24 foreperson will be responsible for signing all communications
25 to the Court and for handing them to the deputy marshal during

1 your deliberations, but, of course, his or her vote is
2 entitled to no greater weight than that of any other jury.

3 Communication with the Court.

4 It is very important that you not communicate with
5 anyone outside the jury room about your deliberations or about
6 anything touching on this case. There is only one exception
7 to this rule. If it becomes necessary during your
8 deliberations to communicate with me, you may send a note
9 through the deputy marshal, signed by your foreperson. No
10 member of the jury should attempt to communicate with me
11 except by a signed writing, and I will never communicate with
12 any member of the jury on any subject touching upon the merits
13 of the case, other than in writing or orally here in open
14 court.

15 Your recollection governs/requests for trial
16 testimony.

17 Your recollection governs. Nobody else's. If in
18 the course of your deliberation your recollection of any part
19 of the testimony should fail, or you should find yourself in
20 doubt concerning my instructions to you on the law, you may
21 request that a witness' or witnesses' testimony, or portions
22 thereof be sent back to you in the jury room. Again, you may
23 make such a request by a note to the deputy marshal. I
24 suggest, however, that you be specific to avoid receiving
25 testimony that you do not want or need. Describe as best and

1 precisely as you can what you want to hear and be patient
2 because it sometimes takes a while to find the testimony in
3 the record.

4 To the extent possible, the exhibits that were
5 admitted as evidence during the trial will be sent back for
6 your deliberations. However, some exhibits, such as audio
7 recordings or documents maintained only in electronic format,
8 cannot be sent back with you. However, you can request to
9 have that evidence played or presented to you in the
10 courtroom. Or alternatively -- and I'm going to the
11 instruction -- we have arranged for a laptop, a clean laptop,
12 to be sent back with you to the jury room.

13 So if there is electronic evidence or video or audio
14 that you would like to have -- exhibits that you would like to
15 have sent back to you, you can simply request those.

16 Deliberations and unanimous verdict.

17 Your duty is to reach a fair conclusion from the law
18 as I have given it to you and the evidence that has been
19 presented in this case. This duty is an important one. When
20 you are in the jury room, listen to each other and discuss the
21 evidence and issues in the case amongst yourselves. It is the
22 duty of each of you as jurors to consult with one another, and
23 to deliberate with a view toward reaching agreement on a
24 verdict, if you can do so without violating your individual
25 judgment and conscience. While you should not surrender

1 conscientious conviction of what the truth is and of the
2 weight and effect of the evidence, and while each of you must
3 decide the case for yourself and not merely acquiesce in the
4 conclusion of your fellow jurors, you should examine the
5 issues and the evidence before you with candor and frankness,
6 and with proper deference to and regard for the opinions of
7 your fellow jurors.

8 You should not hesitate to reconsider your opinions
9 from time to time and to change them if you are convinced they
10 are wrong. However, do not surrender an honest conviction as
11 to the weight and effect of the evidence simply to arrive at a
12 verdict. The decision you reach must unanimous; you must all
13 agree.

14 When you have reached a verdict, simply send me a
15 note signed by your foreperson that you have reached a
16 verdict. Do not indicate what the verdict is. In no
17 communication with the Court should you give a numerical count
18 of where the jury stands in its deliberations.

19 Remember in your deliberations that the government's
20 charge against defendant is no passing matter. The parties
21 and the Court rely upon you to give full and conscientious
22 deliberation and consideration to the issues and evidence
23 before you. By so doing, you carry out to the fullest your
24 oaths as jurors to well and truly try the issues of this case
25 and render a true verdict.

1 Now E, the verdict form.

2 In rendering your verdict, you will be required to
3 fill out a verdict form that contains a series of questions,
4 some of or all of which you must answer depending on your
5 verdict. Any answers you provide must be unanimous. Because
6 the statute forbids both threats to assault and threats to
7 murder, you will be asked on the verdict form to indicate
8 whether, with respect to any true threat, you have found --
9 the true threat included a true threat to murder. I'll make
10 those changes in the final version.

11 After all of you agree on the answer or answers, the
12 foreperson must, mark, date, and sign the form.

13 One final note I'll make to you as well, is that the
14 government was permitted to make the final argument before you
15 in a rebuttal statement. And that is because the government,
16 as I have said repeatedly throughout the trial and these
17 instructions, always bears the burden of proof in this case.
18 To prove the defendant's guilt beyond a reasonable doubt and,
19 therefore, the government gets to give the last argument.
20 However, it's very important that you consider the arguments
21 of both parties in your deliberations.

22 And remember, finally, that arguments are not
23 evidence, and it's up to you to decide what the evidence shows
24 and what to infer from any evidence you find to be
25 established.

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1 If you'll give me a couple of minutes, I just want
2 to talk to the counsel at sidebar and make sure there's
3 nothing more I need to instruct you on.

4 (Continued on the next page.)

5 (Sidebar conference.)

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